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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/730,388 | 12/07/2003 | Paul M. Buxton | TAI.0800 | 4630 |

7590 08/22/2006

Daniel J. Noblitt
Noblitt & Gilmore, LLC
Suite 6000
4800 North Scottsdale Road
Scottsdale, AZ 85251

EXAMINER

KHUU, HIEN DIEU THI

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2863

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/730,388 | Applicant(s) BUXTON ET AL. | |
| | Examiner Cindy D. Khuu | Art Unit 2863 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 14, 27 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 14 is/are allowed.
- 6) ☒ Claim(s) 27 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. However, upon further consideration, a new ground(s) of rejection is made. See rejections below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 27 and 39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claims 27 and 39, the methods and executable instructions for testing components fabricated and tested according to a fabrication process do not produce any tangible results. The practical application of the claimed invention cannot be realized until the information determined is conveyed to the user. For the result to be tangible, it would need to output to a user, displayed to a user, stored for later use, or used in any tangible manner. Hence, the claims are treated as nonstatutory functional descriptive material (See MPEP Sec. 2106 and <http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>).

Pertinent Art Cited

The following US Patent Applications reveal the current state of the art:

Sheppard et al. (5,130,936) discloses a method and apparatus comprising: a tester (Column 5: Line 53) configured to test a set of components (Column 5: Line 65) and generate test data (Column 6: Line 5) for the set of components, wherein the components are fabricated in accordance with a fabrication process; and a diagnostic system (Column 5: Lines 61-62) configured to receive the test data (Column 5: Line 54) from the tester and automatically analyze the test data (Column 5: Line 57) to identify a characteristic of the fabrication process (Column 6: Line 64) for the components wherein the diagnostic system comprises a pattern recognition system configured to recognize a pattern in the test data (Column 19: Line 4).

However, Sheppard does not teach at least a method and apparatus wherein the pattern recognition system includes a feature extractor configured to extract a feature from the test data associated with the pattern and wherein the feature extractor calculates at least one of a mass, a centroid, a geometric moment, and a moment of Hu based on the test data.

Allowable Subject Matter

Claims 1 and 14 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the allowance of claims 1 and 14 is the inclusion of the limitation "wherein the feature extractor calculates at least one of a mass, a centroid, a geometric moment, and a moment of Hu based on the test data". The prior art of record, taken alone or in combination, fails to disclose or render obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHL 8/17/06


John Barlow
Supervisory Patent Examiner
Technology Center 2800